

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 SERGIO GUZMAN-TORRES (1),
JOSE JARAMILLO-MENDEZ (2),

15 Defendant.

CASE NO. 09CR3772 WQH

ORDER

16 HAYES, Judge:

17 The matter before the Court is the motion to suppress statement filed by Defendant Jose
18 Jaramillo-Mendez (ECF No. 37-7).

19 **BACKGROUND FACTS**

20 On September 22, 2009, three vans attempted to enter the United States from Mexico
21 through lane three of the San Ysidro Port of Entry. Defendant Sergio Guzman-Torres was the
22 driver of one of the vans. The van driven by Guzman-Torres contained twenty-five
23 undocumented individuals from Mexico attempting to enter the United States illegally. The
24 Government alleges that Defendant Jose Jaramillo-Mendez acted as the alien-smuggler of the
25 van driven by Guzman-Torres. Defendants were charged in a ten count indictment with four
26 counts of Bringing in Illegal Aliens for financial gain in violation of 8 U.S.C.
27 §1324(a)(2)(B)(ii), and four counts of bringing in illegal aliens for presentation and aiding and
28 abetting in violation of 8 U.S.C. §1324(a)(2)(B)(iii). Defendant Guzman-Torres was charged
with two counts of assault on a federal officer in violation of 8 U.S.C. § 111(a)(1) and (b). In

1 addition to the charges in the indictment, a superseding indictment charged the Defendant
2 Jaramillo-Mendez with two counts of attempted witness tampering in violation of 18 U.S.C.
3 § 1512(b)(1). Defendant Guzman-Torres has entered a plea of guilty to Counts three, five and
4 seven of the Superseding Indictment.

5 Defendant Jaramillo-Mendez moves to suppress his post-arrest statement on the grounds
6 that the Government has not demonstrated that his waiver of *Miranda* rights was voluntary,
7 knowing, and intelligent. Defendant Jaramillo-Mendez further asserts that his statements were
8 not voluntary. The Government contends that the evidence demonstrates that the waiver of
9 *Miranda* was valid and the Defendant's statements were voluntary.

10 Defendant Jaramillo-Mendez was detained at the San Ysidro Port of Entry on
11 September 22, 2009 at 3:30 p.m. after the van in which he was a passenger was stopped
12 attempting to run the port. Immigration and Customs Enforcement Agent Thomas Mendias
13 interviewed Defendant Jaramillo-Mendez at the port of entry at 11:14 p.m. The interview was
14 conducted in the Spanish language by Agent Mendias who is fluent in Spanish. Prior to any
15 questioning, Defendant was informed of his rights under *Miranda v. Arizona*. Defendant
16 executed a written Statement of Rights and Waiver form. Agent Mendias testified at the
17 hearing before this Court that any delay in the interview was a result of the scope of the
18 investigation in this case, which included three vans, more than sixty illegal aliens, and shots
19 fired.


20 In order for inculpatory statements made by a defendant during custodial interrogation
21 to be admissible in evidence, the waiver of *Miranda* rights must be voluntary, knowing, and
22 intelligent. *See United States v. Crews*, 502 F.3d 1130, 1140 (9th Cir. 2007). In order to be
23 knowing and intelligent, "the waiver must have been made with full awareness of both the
24 nature of the right being abandoned and the consequences of the decision to abandon it."
25 *Moran v. Burdine*, 475 U.S. 412, 421 (1986). There is a presumption against waiver and the
26 Government bears the burden of establishing the existence of a valid waiver of *Miranda* rights.
27 *North Carolina v. Butler*, 441 U.S. 369, 374-75 (1979). The validity of a waiver depends
28 upon the particular facts and circumstances of the case, including the background, experience

1 and conduct of the defendant. *Edwards v. Arizona*, 451 U.S. 477, 482 (1981). “Several factors
2 to consider are (i) defendant’s mental capacity; (ii) whether the defendant signed a written
3 waiver; (iii) whether the defendant was advised in his native tongue or had a translator; (iv)
4 whether the defendant appeared to understand his rights; (v) whether the defendant’s rights
5 were individually and repeatedly explained to him; and (vi) whether the defendant had prior
6 experience with the criminal justice system.” *United States v. Crews*, 502 F.3d 1130, 1140
7 (9th Cir. 2007).

8 The interview with the Defendant was recorded on videotape. The Court has reviewed
9 the video and the transcript prepared from the videotape. The videotape shows that Defendant
10 Jaramillo-Mendez was informed of his *Miranda* rights, and that he waived his rights and
11 agreed to speak with the agents. Defendant was advised of his rights in his native language.
12 Defendant appears to have understood his rights, and to have intelligently and knowingly
13 waived his rights. There is no evidence that agents used duress or coercion in any manner.
14 The evidence shows that any delay in conducting the interview was reasonable and necessary
15 based upon the seriousness of the incident and the scope of the investigation. The Court finds
16 that the Government has demonstrated that the waiver of *Miranda* right was voluntary,
17 knowing, and intelligent and that the statements made by the Defendant Jaramillo-Mendez
18 were voluntary.

19 IT IS HEREBY ORDERED that the motion to suppress statement filed by Defendant
20 Jose Jaramillo-Mendez (ECF No. 37-7) is denied.

21
22 DATED: September 22, 2010

23 
24 **WILLIAM Q. HAYES**
25 United States District Judge
26
27
28